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# LETTER

TO THE

## NATIONAL CONVENTION

OF

## FRANCE,

ON THE

DEFECTS IN THE CONSTITUTION OF 1791,

AND THE

EXTENT OF THE AMENDMENTS WHICH OUGHT

TO BE APPLIED.

1753  
1752

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By *JOEL BARLOW*, Esq.

AUTHOR OF ADVICE TO THE PRIVILEGED ORDERS;  
THE VISION OF COLUMBUS; AND THE  
CONSPIRACY OF KINGS.

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GENTLEMEN,

THE time is at last arrived, when the people of France, by resorting to their own proper dignity, feel themselves at liberty to exercise their unembarrassed reason, in establishing an equal government. The present crisis in your affairs, marked by the assembling of a National Convention, bears nearly the same relation to the last four years of your history, as your whole revolution bears to the great accumulated mass of modern improvement. Compared therefore with all that is past, it is

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perhaps



perhaps the most interesting portion of the most important period that Europe has hitherto seen.

Under this impression, and with the deepest sense of the magnitude of the subject which engages your attention, I take a liberty which no slight motives could warrant in a stranger, the liberty of offering a few observations on the business that lies before you. Could I suppose however that any apology were necessary for this intrusion, I should not rely upon the one here mentioned. But my intentions require no apology; I demand to be heard, as a right. Your cause is that of human nature at large; you are the representatives of mankind; and though I am not literally one of your constituents, yet I must be bound by your decrees. My happiness will be seriously affected by your deliberations; and in them I have an interest, which nothing can destroy. I not only consider all mankind as forming but one great family, and therefore bound by a natural sympathy to regard each other's hap-

happiness as making part of their own; but I contemplate the French nation at this moment as standing in the place of the whole. You have stepped forward with a gigantic stride to an enterprize which involves the interests of every surrounding nation; and what you began as justice to yourselves, you are called upon to finish as a duty to the human race.

I believe no man cherishes a greater veneration, than I have uniformly done, for the National Assembly who framed that Constitution, which I now presume your constituents expect you to revise. Perhaps the merits of that body of men will never be properly appreciated. The greatest part of their exertions were necessarily spent on objects which cannot be described; and which from their nature can make no figure in history. The enormous weight of abuses they had to overturn, the quantity of prejudice with which their functions called them to contend, as well in their own minds as in those of all the European world, the open  
opposition



opposition of interests, the secret weapons of corruption, and the unbridled fury of despairing faction,—these are subjects which escape our common observation, when we contemplate the labours of that Assembly. But the legacy they have left to their country in their deliberative capacity will remain a lasting monument to their praise ; and though while searching out the defective parts of their work, without losing sight of the difficulties under which it was formed, we may find more occasion to admire its wisdom, than to murmur at its faults ; yet this consideration ought not to deter us from the attempt.

The great leading principle, on which their constitution was meant to be founded, is *the equality of rights*. This principle being laid down with such clearness, and asserted with so much dignity in the beginning of the code, it is strange that men of clear understandings should fail to be charmed with the beauty of the system which nature must have taught them to build  
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on that foundation. It shows a disposition to counteract the analogy of nature, to see them at one moment, impressing this indelible principle on our minds, and with the next breath declaring, That France shall remain a monarchy,—that it shall have a king, hereditary, inviolable, clothed with all the executive, and much of the legislative power, commander in chief of all the national force by land and sea, having the initiative of war, and the power of concluding peace;—and above all, to hear them declare that, “The nation will “provide for the splendour of the throne,” granting in their legislative capacity to that throne more than a million sterling a year, from the national purse, besides the rents of estates which are said to amount to half as much more.

We must be astonished at the paradoxical organization of the minds of men who could see no discordance in these ideas. They begin with the open simplicity of a rational republic, and immediately plunge into all the labyrinths of royalty; and a  
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great part of the constitutional code is a practical attempt to reconcile these two discordant theories. It is a perpetual conflict between principle and precedent,—between the manly truths of nature, which we all must feel, and the learned subtilties of statesmen, about which we have been taught to reason.

In reviewing the history of human opinions, it is an unpleasant consideration to remark how slow the mind has always been in seizing the most interesting truths; although, when discovered, they appear to have been the most obvious. This remark is no where verified with more circumstances of regret, than in the progress of your ideas in France relative to the inutility of the kingly office. It was not enough that you took your first stand upon the high ground of natural right; where, enlightened by the sun of reason, you might have seen the clouds of prejudice roll far beneath your feet—it was not enough that you began by considering royalty, with its well-known scourges, as being the cause of  
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all your evils,—that the kings of modern Europe are the authors of war and misery, that their mutual intercourse is a commerce of human slaughter,—that public debts and private oppressions, with all the degrading vices that tarnish the face of nature, had their origin in that species of government which offers a premium for wickedness, and teaches the few to trample on the many;—it was not enough that you saw the means of a regeneration of mankind in the system of equal rights, and that in a wealthy and powerful nation you possessed the advantage of reducing that system to immediate practice, as an example to the world and a consolation to human nature. All these arguments, with a variety of others which your republican orators placed in the strongest point of light, were insufficient to raise the public mind to a proper view of the subject.

It seems that some of your own philosophers had previously taught, that royalty was necessary to a great nation. Montesquieu, among his whimsical maxims about

laws and government, had informed the world that a limited monarchy was the best possible system, and that a democracy could never flourish, but in a small tract of country. How many of your legislators believed in this doctrine, how many acted from temporising motives, wishing to banish royalty by slow degrees, and how many were led by principles less pardonable than either, it is impossible to determine. Certain it is that republican ideas gained no ground upon the monarchical in your constituting assembly, during the last six months of their deliberations. It is likewise certain that the majority of that assembly took much pains to prevent the people from discovering the cheat of royalty, and to continue their ancient veneration, at least for a while, in favour of certain principles in government which reason could not approve.

It is remarkable that all the perfidy of your king, at the time of his flight, should have had so little effect in opening the eyes of so enlightened a people as the French.

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His flight, and the insulting declaration which he left behind him, were sufficient not only to give the lie to the fiction, with which common sense has always been put to the blush, and to which your assembly had attempted to give a sanction, *that kings can do no wrong*, but they were sufficient to show, at least to all who would open their eyes, that the business of government required no such officer. There is no period during your revolution, if there is any to be found in the history of France, when business went on with more alacrity and good order, than during the suspension of the royal functions in the interval from the time that the king was brought back to the capital in June, till the completion of the constitution in September. Every thing went right in the kingdom, except within the walls of the assembly. A majority of that body was determined to make an experiment of a limited monarchy. The experiment has been made. Its duration has indeed been short, being less than eleven months; but, although in

some respects it has been almost as fatal to the cause of liberty as any system could have been within the time, yet in other respects it has done more good than all the reasonings of all the philosophers of the age could have done in a much longer time: it has taught them a new doctrine, which no experience can shake, and which reason must confirm, *that kings can do no good*. So that, if the question were now to be agitated by the people of France, as it may be by you in their behalf, whether they will have a king or not, I should suppose the following would be the state of the calculation: A certain quantity of evils are to be expected from the regal office; and these evils are of two classes, *certain* and *probable*. The *certain* evils are, 1. The million and a half sterling a year drawn from the people to “support the splendour of the throne;” 2. A great variety of enormous salaries paid to ministers at home, to ambassadors abroad, and to bishops in the church; while the only business of these men and their salaries

is



is to support the fiction, that kings can do no wrong. It will always cost more to support this fiction, than it would to support the whole national government without it. 3. The worst of all the certain evils is, that the million and a half will be nearly all spent in bribery and corruption among the members of the legislature, to increase the power of the throne, and the means of oppression. If the money, after it is extorted from the people, could be thrown into the sea, instead of being paid to the king and his satellites, the evil would be trifling; in that case the wickedness would cease with the first act of injustice; while in this it multiplies the weapons of destruction against themselves. It creates a perpetual scrambling for power, rewards knavery in the higher ranks, encourages falsehood in others, and corrupts the morals of the whole. — This it is that debases and vilifies the general mass of mankind, and brings upon them the insulting remarks of many men, who even wish them well, *that the people are unfit for liberty.*

Among

Among the *probable* evils resulting from the kingly office, the principal one, and indeed the only one that need to be mentioned, is the chance of its being held by a *weak or a wicked man*. When the office is hereditary, it is scarcely to be expected but that this should always be the case. Considering the birth and education of princes, the chance of finding one with practical common sense is hardly to be reckoned among possible events; nor is the probability less strong against their having virtue. The temptations to wickedness arising from their situation are too powerful to be resisted. The persuasive arts of all their flatterers, the companions of their youth, the ministers of their pleasures, and every person with whom they ever converse, are necessarily employed to induce them to increase their revenue, by oppressing the people, whom they are taught from their cradle to consider as beasts of burthen. And what must almost insure the triumph of wickedness in their tempers, is the idea that they act totally and for ever without restraint. This is an allurements  
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to vice that even men of sense could scarcely resist. Impress it on the mind of any man that he *can do no wrong*, and he will soon convince you of your mistake.

Take this general summary of the evils arising from hereditary monarchy, under any restrictions that can be proposed, and place it on one side of the account,—and state, on the other side, the truth which I believe no man of reflection will hereafter call in question, *that kings can do no good*, and the friends of liberty will no longer be in doubt which way you will decide the question relative to that part of your constitution.

I cannot feel easy in dismissing this part of my subject, without offering some remarks on that general vague idea which has long been floating about in the world, that a people under certain circumstances are unfit for liberty. You know in what insulting language this observation has been perpetually applied to the French during the course of the  
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revolution. Some have said that they were too *ignorant* to form a government of their own, others, that they were too *poor*, others that they were too *numerous*, and others, that they were too *vitious*. I will not descend to the examination of the particular parts of this charge, nor of the whole as applied to the French, or to any other particular people; I will only remark on the general observation, as applicable to any possible nation existing in a state of nature. By a state of nature I mean a state of peace; where the intention is, as a nation, to live by industry at home, not by plunder from abroad.

I think Montesquieu has said, that virtue must be the foundation of a republican government. His book is not now by me, or I would try to discover what he means by virtue. If he means those moral habits by which men are disposed to mutual justice and benevolence, which is the common idea of virtue, it cannot be the foundation of a republican government, or of any government. These qualities re-  
quire



quire no restraints: the more general their influence should be among any people, the less force would be necessary in their government; and could we suppose a nation in which they should exist in a perfect degree, that nation would require no government at all. It is the vices, not the virtues of men which are the objects of restraint, and the foundation of government. The expression of the general will, operating on the mind of an individual, serves with him as a substitute for virtue. This general will may always be expressed by a nation in any possible circumstances; and, if the nation be in a state of nature, this expression will always be *moral virtue*, according to their ideas of the word; and it will always *tend* to moral virtue, in the most extensive sense in which we have yet been able to define it.

It has been said, that man differs from man, as much as man from beast; it is said also to be fit, that the wise and virtuous should make laws for the ignorant and vitious. It is not to my purpose to call in  
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question the first of these assertions; but the second, plausible as it is, I must totally deny; at least in the sense in which it is generally understood. That some men in the same society should be wiser and better than others, is very natural; and it is as natural, that the people should choose such to represent them in the formation of laws. But in this case the laws originate from the people at large, ignorant and vicious as they are; and the representatives are only the organs by which their will is declared. This is not the sense in which the assertion is intended. It is meant, that if kings were always wise and good, or if a band of nobles were always wise and good, it would be best that they should be the hereditary legislators. This is the sense in which I deny the assertion, because it is contrary to the analogy of nature. It being a subject on which we cannot look for experience, we must reason only from analogy; and it appears extremely evident to me, that, were a succession of the wisest and best men that ever have, or ever will be known, to be perpetuated in any country



try as independent legislators for the people, the happiness and good government of the nation would be greatly injured by it. I am confident that any people, whether virtuous or vicious, wise or ignorant, numerous or few, rich or poor, are the best judges of their own wants relative to the restraint of laws, and would always supply those wants better than they could be supplied by others.

In expressing these ideas on the peace and happiness to be expected from a free republic, I have been often accused of holding too favourable an opinion of human nature. But it appears to me, that the question, whether men, on any given portion of the earth, are able to make their own laws, does not depend in the least on their moral character. It has no relation to their state of improvement, or their state of morals. The only previous enquiry is, What is the object to be aimed at in the government? If it be the good of the whole community, the whole can best know the means of pursuing it; if it be to exalt a

few men at the expence of all the rest, the decision, perhaps, may take a different turn.

A republic of beavers or of monkies, I believe, could not be benefited by receiving their laws from men, any more than men could be in being governed by them. If the Algerines or the Hindoos were to shake off the yoke of despotism, and adopt ideas of equal liberty, they would that moment be in a condition to frame a better government for themselves, than could be framed for them by the most learned statesman in the world. If the great Mr. Locke, with all his wisdom and goodness, were to attempt the task, he would probably succeed as ill as he did in his constitution for the colony of South Carolina.

Colonies have always been teased and tormented more or less (and probably always will be as long as colonies shall exist) by the overweening wisdom of the mother-country, in making their laws and constitutions. This is often done without  
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any wish to tyrannize, and sometimes with the best intentions to promote the good of the people. The misfortune more frequently lies in the legislator's not knowing the wants and wishes of the people, than in any wanton desire to counteract them. The sure and only characteristic of a good law is, *that it be the perfect expression of the will of the nation*; its excellence is precisely in proportion to the universality and freedom of consent. And this definition remains the same, whatever be the character of the nation, or the object of the law. Every man, as an individual, has a will of his own, and a manner of expressing it. In forming these individuals into society, it is necessary to form their wills into a government; and in doing this, we have only to find the easiest and clearest mode of expressing their wills in a national manner. And no possible disadvantages relative to their state of morals or civilization can render this a difficult task.

I have gone into these arguments, not merely to prove that the *French* are fit for liberty.

liberty, who are certainly at this moment the most enlightened nation in Europe; but to show that the calumny contained in the contrary assertion need not be repeated against any other nation, who should make the like exertions, and whose pretensions, in this respect, might appear more questionable in the eye of fashionable remark.

But it will be said, I am too late with all these observations on the necessity of proscribing royalty from your constitution. The cause is already judged in the minds of the whole people of France; and their wishes will surely be the rule of your conduct. I suppose that, without being reminded of your duty by a stranger, one of your first resolutions would be, to fix a national anathema on every vestige of regal power, and endeavour to wipe out from the human character the stain which it received, with its veneration for kings and hereditary claims. But it requires much reflection to be well aware to what extent this duty should carry you. There are many vices in your constitution, which, though



though not apparently connected with the king, had their origin in regal ideas. To purify the whole code from these vices, and to purge human nature from their effects, it will be necessary to resort to many principles which appear not to have struck the minds of the first assembly.

You will permit me to hint at some of the great outlines of what may be expected from you, under the peculiar advantages with which you meet to form a glorious republic. Although many of my ideas may be perfectly superfluous, being the same as will occur to every member of your body, yet it is possible that some of them may strike the mind in a new point of light, and lead to reflections which would not rise from any other quarter. Should this be the case in the smallest degree, it ought to be considered, both by you and me, as an ample reward for our pains, in writing and in reading this letter.

On considering the subject of government, when the mind is once set loose from  
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the shackles of royalty, it finds itself in a new world. It rises to a more extensive view of every circumstance of the social state. Human nature assumes a new and more elevated shape, and displays many moral features, which, from having been always disguised, were not known to exist. In this case, it is a long time before we acquire a habit of tracing effects to their proper causes, and of applying the easy and simple remedy to those vices of our nature which society requires us to restrain. This, I apprehend, is the source of by far the greatest difficulties with which you have to contend. We are so much used, in government, to the most complicated systems, as being necessary to support those impositions, without which it has been supposed impossible for men to be governed, that it is an unusual task to conceive of the simplicity to which the business of government may be reduced, and to which it must be reduced, if we would have it answer the purpose of promoting happiness.

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After proscribing royalty, with all its appendages, I suppose it will not be thought necessary in France to support any other errors and superstitions of a similar complexion; but that undisguised reason in all things will be preferred to the cloak of imposition. Should this be the case, you will conceive it no longer necessary to maintain a *national church*. This establishment is so manifestly an imposition upon the judgment of mankind, that the constituting assembly must have considered it in that light. It is one of those monarchical ideas, which pay us the wretched compliment of supposing that we are not capable of being governed by our own reason. To suppose that the people of France are to learn the mode of worshipping God from the decrees of the Council of Trent, is certainly as absurd as it would be to appeal to such a Council to learn how to breathe, or to open their eyes. Neither is it true, as is argued by the advocates of this part of your constitution, that the preference there given to one mode of worship

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by the payment of the Catholic priests, from the national purse, to the exclusion of others, was founded on the idea of the property supposed to have been possessed by that church, and which by the assembly was declared to be thenceforward the property of the nation.

The church, in this sense of the word, signifies nothing but a *mode of worship*; and to prove that a mode can be a proprietor of lands, requires a subtilty of logic that I shall not attempt to refute. The fact is, the church considered as an *hierarchy*, was always necessary to the support of royalty; and your assembly, with great consistency of design, wishing to preserve something of the old fabric, preserved something of this necessary prop. But as the fabric is now overturned, the prop may be safely taken away. I am confident that monarchy and hierarchy will be buried in the same grave; and that in France they will not survive the present year.

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I know it is asserted and believed by some well-wishers to society, that religion would be lost among men, if they were to banish all legal establishments with regard to the manner of exercising it. I should not be so perfectly convinced as I am of the absurdity of this opinion, were it not easy to discover how it came to be introduced. It is an idea, as I believe, purely political; and it had its origin in the supposed necessity of governing men by fraud,—of erecting their credulity into an hierarchy, in order to sustain the despotism of the state. I hold religion to be a natural propensity of the mind, as respiration is of the lungs. If this be true, there can be no danger of its being lost: and I can see no more reason for making laws to regulate the impression of Deity upon the soul, than there would be, to regulate the action of light upon the eye, or of air upon the lungs. I should presume therefore, that, on stripping this subject of all the false covering which unequal governments have thrown upon it, you will make no national provision for the support of any class of men,

under the mock pretence of maintaining the worship of God. But you will leave every part of the community to nominate and pay their own ministers in their own way. The mode of worship which they will thus maintain, will be the most conducive to good order, because it will be that in which the people will believe.

Much has been said, since the beginning of your revolution, on the difference between the business of framing constitutions, and that of ordinary legislation. Indeed I am afraid that either too much or too little has been inculcated on this subject; because it appears to me, that the doctrine now received is not that which the subject would naturally suggest. It teaches us to consider those laws that are called *Constitutions*, in a light so sacred, as to favour too much of the old leaven of veneration for precedent; and every degree of such veneration is so much taken from the chance of improvement. To suppose that our predecessors were wiser than ourselves is not an extraordinary thing, though  
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the opinion may be ill-founded; but to suppose that they can have left us a better system of political regulations than we can make for ourselves, is to ascribe to them a degree of discernment to which our own bears no comparison; it supposes them to have known our condition by prophecy better than we can know it by experience.

There was not only a degree of arrogance in your first assembly, in supposing that they had framed a constitution, which for a number of years would require no amendment; but they betrayed a great degree of weakness in imagining that the ridiculous barriers with which they fenced it round would be sufficient to restrain the powerful weight of opinion, and prevent the people from exercising the irresistible right of innovation, whenever experience should discover the defects of the system. It is partly to these barriers, as well as to the inherent vices of the constitution, that we are to attribute the late insurrections in Paris. If we would trace the causes of  
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popular commotions, we should always find them to have originated in a previous unjust restraint.

I would not however be understood to mean that there should be no distinction between the constitutional code, and other occasional laws. There is room for a considerable difference, both as to the mode of expressing them, and as to the formalities proper to be observed in repealing or amending them. I will offer some remarks on a plan for amendments towards the close of my letter. With regard to the general complexion of the code, it ought to be as simply expressed and easy to be understood as possible; for it ought to serve not only as a guide to the legislative body, but as a political grammar to all the citizens. The greatest service to be expected from it is, that it should concentrate the maxims, and form the habits of thinking, for the whole community. For this purpose, it is not sufficient that it be purified from every vestige of monarchy, and hierarchy, with all the impositions and inequalities



equalities which have sprung insensibly from these ideas ; but it should contemplate the whole circle of human propensities, and cut off the temptations and opportunities for degenerating into those evils which have so long afflicted mankind, and from which we are now but beginning to arise.

After laying down the great fundamental principle *that all men are equal in their rights*, it ought to be the invariable object of the social compact to insure the exercise of that equality, by rendering them as equal in all sorts of enjoyments, as can possibly be consistent with good order, industry, and the reward of merit. Every individual ought to be rendered as *independent* of every other individual as possible ; and at the same time as *dependent* as possible on the whole community. On this undeniable maxim, I think the following positions ought to be founded and guaranteed in the constitutional code :

*First,*

*First*, The only basis of representation in the government should be *population*; territory and property, though absurdly stated by your first assembly as making part of the basis of representation, have no interest in it. Property, in itself, conveys no right to the possessor, but the right of enjoying it. To say that it has the right of claiming for itself the protection of society, is absurd; because it is already protected, or it would not be property. It is the *person*, not the property, that exercises the will, and is capable of enjoying happiness; it is therefore the person, for whom government is instituted, and by whom its functions are performed. The reason why property has been considered as conveying additional rights to the possessor in matters of government, is the same as has blinded the understandings of men relative to the whole order of nature in society. It is one of those appendages of monarchy and oligarchy, which teaches that the object of government is to increase the splendour of the few, and the misfortunes of the many.



many. And every step that such governments take has a tendency to counteract the equality of rights, by destroying the equality of enjoyments.

*Second,* If you take population as the only basis of representation in the departments, the next step will be, to declare every independent man to be an active citizen. By an independent man, I mean every man whom the laws do not place under the control of another, by reason of nonage or domesticity. The laws of France, in my opinion, have always placed the period of majority by several years too late; that is, later than nature has placed it. This however, was of little consequence in a political view, as long as the government remained despotic; but now, when the rights of man are restored, and government is built on that foundation, it is of consequence to increase as far as possible the number of active citizens. And for this purpose I should suppose the period of majority ought to be placed at least as early as the age of twenty years.

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To make this change in France would be attended with many advantages. It would increase the stock of knowledge, and of industry, by inspiring young men with early ideas of independence, and the necessity of providing for themselves by some useful employment: it would be a great inducement to early marriages; and, by that means, increase population, and encourage purity of morals.

I am likewise fully convinced that the assembly was wrong in supposing that a state of domesticity ought to deprive a man of the rights of a freeman. This is a relic of those ideas which the ancient government has inspired. Where a servant is absolutely dependent on the caprice of a master for his place, and consequently for his bread, there is indeed much force in the argument, that he can have no political will of his own; and will give his suffrage as directed by the master. But when every man shall be absolutely free to follow any profession, every kind of useful industry being equally encouraged and rewarded;



warded; and especially when every man shall be well instructed in his duties and his rights, which will certainly be the consequence of the system you have now begun,—such arguments will fall to the ground with the system which they support. The servant and his master, though not equal in property or in talents, may be perfectly so in freedom and in virtue. Wherever the servant is more dependent on the master, than the master on the servant, there is something wrong in the government. The same remarks I believe may be repeated, with little variation, in the case of insolvent debtors, another class of men disfranchised by the first assembly.

*Third,* The manner in which citizenship [ may be acquired or lost, is a subject which ought to be reconsidered by you; as your predecessors have left in it some room for improvement. Their regulation was indeed a liberal one, compared with what other governments have done; but not so, when compared with what the subject required. I am confident that when society

shall be placed on the right footing, the citizens of any one state will consider those of any other state as their brothers and fellow citizens of the world; and in this case, when those who are called foreigners come to settle among them, a mere declaration of their intention of residence will be sufficient to entitle them to all the rights which the natives possess. I was anxious that the French should set the example in this species of liberality, as they have done in so many other good things; and I still believe that on reviewing the subject, you will do it.

But according to your constitution there are many ways in which the rights of citizens may be lost, for one of which I can see no reason; it is naturalization in a foreign country. This is so manifestly illiberal and unjust, that I am almost sure it will be altered. It is an old feudal idea of allegiance; and goes upon the supposition that fidelity to one country is incompatible with our duty to another. When a citizen of one state is complimented with the freedom



freedom of another, it is generally an acknowledgment of his merit; but your constituting assembly considered it as an object of punishment. Many of your citizens have been naturalized in America; but the American governments certainly did not foresee that this act of theirs would disfranchise those gentlemen at home. You have lately conferred the rights of a French citizen on George Washington. If he should accept the honour you have thus done him, and the American constitution were in this respect the same as your own, he must immediately be turned out of office, and for ever disfranchised at home.

*Fourth,* You will doubtless consider the important subject of the *frequency of popular elections*, as claiming a farther deliberation. It is an article on which too much reflection cannot be bestowed. It influences the habits of the people and the spirit of the government in a variety of ways, that escape our common observation. I mentioned before, that one of the first objects of society is to render every individual

individual perfectly dependent on the whole community. The more completely this object is attained, the more perfect will be the equality of enjoyments and the happiness of the state. But of all individuals, those who are selected to be the organs of the people, in making and in executing the laws, should feel this dependence in the strongest degree. The easiest and most natural method of effecting this purpose is, to oblige them to recur frequently to the authors of their official existence, to deposit their powers, mingle with their fellows, and wait the decision of the same sovereign will which created them at first, to know whether they are again to be trusted.

There are doubtless some limits to this frequency of election, beyond which it would be hurtful to pass ; as every subject has a medium between two vitious extremes. But I know of no office, in any department of state, that need to be held for more than one year, without a new election. Most men, who give in to this  
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idea with respect to the legislative, are accustomed to make an exception with regard to the executive, and particularly with regard to that part which is called the judiciary. I am aware of all the arguments that are usually brought in support of these exceptions ; but they appear to me of little weight, in comparison to those in favour of universal annual elections. Power always was, and always must be, a dangerous thing. I mean, power collected from the great mass of society, and delegated to a few hands ; for it is only in this sense that it can properly be called power. The physical forces of all the individuals of a great nation cannot be brought to act at once upon a single object ; and the same may be said of their moral forces. It is necessary therefore that the exercise of these should always be performed by delegation ; the moral in legislation, the physical in execution. This is the proper definition of national power ; and in this sense it is necessarily dangerous ; because, strictly speaking, it is not exercised by those whose property it is, and for whose  
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good it is intended to operate. It is in the nature of this kind of trust to invert in some measure the order of things ; it apparently sets the servant above the master, and disposes him to feel a kind of independence which ought never to be felt by any citizen, particularly one who is charged with a public function.

It has ever been the tendency of government to divide the society into two parties,—the governors and the governed. The mischiefs arising from this are almost infinite. It not only disposes each party to view the other with an eye of jealousy and distrust, which soon rise to acts of secret or open enmity, but it effectually corrupts the morals of both parties, and destroys the vital principles of society ; it makes government the trade of the few, submission the drudgery of the many, and falsehood the common artifice of the whole. To prevent this, I would have no man placed in a position in which he can call himself governor, for a moment longer than while he performs the duties of his trust  
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to the satisfaction of his fellow citizens, nor even then, but for a short period. He should feel at all times as though he were soon to change places with any one of his neighbours, whom he now sees submissive to his authority.

But to answer this purpose, the frequent return of elections is not of itself sufficient. I am fully of the opinion, that with regard to all discretionary officers, there ought to be an exclusion by rotation. Those functions that are purely ministerial, such as those of sheriffs, constables, clerks of courts, registers &c. perhaps may form exceptions; but legislators, executive counsellors, judges and magistrates of every description, should not only feel their dependence on the people by an annual election, but should frequently mingle with them by an exclusion from office. The effect of this would be, not what is often asserted, that no one would understand government, but the contrary, that every one would understand it. This would form a prodigious stimulus to the

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acquisition of knowledge among all descriptions of men, in all parts of the country. Every man of ordinary ability would be not only capable of watching over his own rights, but of exercising any of the functions by which the public safety is secured. For whatever there is in the art of government, whether legislative or executive, above the capacity of the ordinary class of what are called well informed men, is superfluous and destructive, and ought to be laid aside. The man who is called a *politician*, according to the practical sense of the word in modern Europe, exercises an office infinitely more destructive to society than that of a highwayman. The same may be said, in general, of the *financier*; whose art and mystery, on the funding system of the present century, consist in making calculations to enable governments to hire mankind to butcher each other, by drawing bills on posterity for the payment.

I would therefore suggest the propriety of your reviewing the article of biennial elections,



elections, as instituted by your first assembly, and of your making them annual; and the same term, if not the same manner of election, ought to extend to all executive officers, whose functions are in any manner discretionary. I think it would likewise be essential, that no office of this description should be held by one man, more than two years in any term of four years. This would send into the departments, and into every part of the empire, at frequent periods, some thousands of men with practical knowledge of public business; it would at least be the means of doubling the number of such well-instructed men; and, by holding out the inducement to others to qualify themselves to merit the confidence of their fellow citizens, it would multiply the number of men of theoretical knowledge, at least ten fold. All these men will be watchful guardians of the public safety. But these are not all the advantages of frequent elections. They habituate the people to the *business* of election, and enable them to carry it on with order and regularity, like their daily

labour; they habituate the candidates to be gratified with the public confidence, or to be disappointed in the expectation of obtaining it; so that their success or disappointment ceases to make that deep impression on their minds, which it otherwise would do. It is thus that you would cut off an infinite source of that intrigue and corruption, which are foretold with so much horror by those who have not well studied the effects of a well organized popular government. But another method, not less effectual, to prevent the arts of scrambling for power and places, will be hinted at in the following article.

*Fifth*, Among the fatal misconceptions of things which monarchy has entailed upon us, and which are extremely difficult to eradicate from the mind, must be reckoned that prevalent opinion, that all governments should gratify their agents with *enormous salaries*. This idea has usually been more particularly applied in favour of the executive officers of government and their dependants; and it had its origin in  
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the antecedent principle, that government divides the people into two distinct classes, and that the same quantity of business, coming within the verge of one of these classes, must be paid for at a higher price than it would be, within that of the other; though it should be performed by the same man, and required the same exertion of talents. Your constitution is silent as to the quantity of salary that shall be paid to any particular officer; it only says that "the nation will provide for the splendour of the throne," (which indeed is a declaration of war against the liberties of the people) but the authors of that constitution, in their legislative capacity, after providing for that splendour with a sum sufficient to purchase the majority of almost any corps of seven hundred legislators, went on to provide for the splendour of the ministers. They gave to one, if my memory does not deceive me, one hundred and fifty thousand livres, and one hundred thousand to each of the rest. This on an average is about three times more than ought to have been given,

given, unless the object were to carry on the government by intriguing for places.

I mention this article, not on the score of œconomy. That consideration, however weighty it may appear, is one of the least that can strike the mind on the subject of public salaries. The evil of paying too much is pregnant with a thousand mischiefs. It is almost sufficient of itself to defeat all the advantages to be expected from the institution of an equal government. The general rule to be adopted in this case, (which perhaps is all that can be said of it in the constitution) appears to me to be this, *That so much, and no more, shall be given for the performance of any public function, as shall be sufficient to induce such men to undertake it whose abilities are equal to the task.* If this rule were strictly observed, it is rational to conclude, that there would be no more contention or intrigue among candidates to obtain places in the government, than there is among manufacturers, to find a market  
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for their goods. This conclusion becomes more probably just, when we consider that your intention is to cut off from the servants of the public all hopes of obtaining the public money by any indirect and fraudulent measures. When there shall be no more civil list, or livre rouge, no more ministerial patronage in church or state, no more sale of justice or purchase of oppression, or any kind of perquisite of office, but the candidate shall be assured, that all the money he shall receive, will be the simple sum promised by the legislature, that sum being no more than the work is honestly worth, he will accept or relinquish the most important trust, as he would an ordinary occupation.

This single circumstance of salaries, being wisely guarded on every side, would, in the course of its operation, almost change the moral face of government. It would silence all the clamours against the republican principle, and answer many of the fashionable calumnies against the character of the human heart.

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There is another questionable opinion now extant, even in republican countries; which, as it has made some figure in France, and is connected with the subject of salaries, I will mention in this place. It is supposed to be necessary, for the energy of government, that its officers should assume a kind of external pomp and splendour, in order to dazzle the eye, and inspire the public mind with a veneration for their authority. As this pomp cannot be supported without some expence, the supposed necessity for assuming it is always offered as a reason for high salaries; and, allowing the first position to be true, the consequence is certainly reasonable and just. If we are to be governed only by deception, it is right that we should pay for this deception. But the whole argument is wrong; that is, if we allow monarchy and hierarchy to be wrong; it is a badge of that kind of government which is directly the reverse of republican principles, or the government of reason. I do not deny, that this official pomp has in a great measure the effect which is intended from it;



it; it imposes on the unthinking part of mankind, and has a tendency to secure their obedience. This effect, however, is not so great as that of simplicity, and the native dignity of reason would be; but on the moral habits of society, its operation is more pernicious than at first view we are ready to imagine. So far as the people are caught by the imposition, it leads them to wrong ideas of themselves, of their officers, and of the real authority of laws. This is a fatal deviation from the true design of government; for its principal object certainly ought to be, to rectify our opinions, and improve our morals.

For my own part, when I see a man in private life assuming an external splendour, for the sake of gaining attention, I cannot but feel it an insult offered to my understanding; because it is saying to me, that I have not discernment enough to distinguish his merit, without this kind of *ecce signum*. And when an officer of government exhibits himself in the foppery of a puppet, and is drawn by six or eight

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horses, where two would be really more convenient to himself, I am grieved at the insult offered to the nation, and at their stupidity in not perceiving it. For the language of the mummary is simply this, That the officer cannot rely upon his own personal dignity as a title to respect, nor the laws be trusted to their own justice, to insure their execution. It is a full acknowledgment on his part, that the government is bad, and that he is obliged to dazzle the eyes of the people, to prevent their discovering the cheat. When a set of judges on the bench take the pains to shroud their head and shoulders in a fleece of horse-hair, in order to resemble the bird of wisdom, it raises a strong suspicion, that they mean to palm upon us the emblem for the reality.

It is essential to the character of a free republic, that every thing should be reduced to the standard of reason ; that men and laws should depend on their own intrinsic merit, and that no shadow of deception should ever be offered to the people ;

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as it cannot fail to corrupt them, and pave the way to oppression. I make these remarks, not that they will form an article proper to enter into your constitution, but to remove every appearance of argument in favour of high salaries. And I think the constitution ought to contain a general declaration, *that every public salary should be restricted to a sum not more than sufficient to reward the officer for his labour*; which sum must, of course, be left to be fixed by the legislature.

*Seventh*, There appears to me to be an error of doctrine in France, with respect to the relation which ought to subsist between the representative, and his immediate constituents. It is said, that when a representative is once chosen, and sent to the Assembly, he is no longer to be considered as representing the people of the particular department which sent him, but of the nation at large; and therefore, during the term for which he is chosen, he is not accountable to the people who chose him, but is to be controuled, removed or

suspended, only by the National Assembly. This appears to have been established, in order to get rid of a contrary doctrine, which was found to be inconvenient; which was, that a delegate should be bound at all times to follow the *instructions* of his constituents; as thereby all the advantages to be expected from discussion and deliberation would be lost. If the first of these be an error, as I believe it is, it may easily be avoided, without running into the last. When the delegate receives instructions, which prove to be contrary to the opinion which he afterwards forms, he ought to presume that his constituents, not having had the advantage of hearing the national discussion, are not well informed on the subject, and his duty is to vote according to his conscience. It is to be supposed that, for his own sake, he will explain to them his motives; but if for this, or any other circumstance, they should be dissatisfied with his conduct, they have an undoubted right at any time to recall him, and nominate another in his place. This will tend to maintain a proper relation between



tween the representative and the people, and a due dependence of the former upon the latter. Besides, when a man has lost the confidence of his fellow-citizens of the department, he is no longer their representative; and when he ceases to be theirs, he cannot in any sense be the representative of the nation; since it is not pretended that he can derive any authority, but through his own constituents. This, however, cannot deprive the assembly of its right to expel or suspend a member for any refractory conduct, which may be deemed an offence against the state.

*Eighth*, The article of *inviolability*, as applied to the members of the assembly, or to any other officers of the state, is worthy of re-consideration. But before it be again decided in the affirmative, you ought to take a general view of that interesting subject of *imprisonment for debt*. It is a species of civil cruelty which all modern governments have borrowed from the Roman law, which considered a debtor as a criminal, and committed the care of his punishment

ment into the hands of the creditor, lending the public prison as an instrument of private vengeance. It is a disgrace to the wisdom of a nation, and can never be allowed in a well regulated state. If no citizen could be arrested or deprived of his liberty, for debt, there would be no need of making an exception in favour of the officers of government ; and thus you would remove a distinction which must always appear unjust.

*Ninth,* You will scarcely think that your duty is discharged, so as to satisfy your own minds on the establishment of a constitution, from which the friends of humanity will anticipate a total regeneration of society, until you shall have given a farther declaration on the subject of criminal law. All men of reflection are agreed, that punishments in modern times have lost all proportion to the crimes to which they are annexed, even on that scale of barbarous justice by which they were introduced. Few, however, have had the wisdom to discover, or the boldness to de-  
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clare, the true cause of the evil ; and while we remain ignorant of the cause, it is no wonder that we fail in finding the remedy. In the glooms of meditation on the miseries of civilized life, I have been almost led to adopt this conclusion, That society itself is the cause of all crimes ; and, as such, it has no right to punish them at all. But, without indulging the severity of this unqualified assertion, we may venture to say, that every punishment is a new crime ; though it may not in all cases be so great as would follow from omitting to punish.

There is a manifest difference between *punishment* and *correction* ; the latter, among rational beings, may always be performed by instruction ; or at most by some gentle species of restraint. But punishment, on the part of the public, arises from no other source but a jealousy of power. It is a confession of the inability of society, to protect itself against an ignorant or refractory member. When there are factions in a state, contending for the supreme command, the pains inflicted by each party  
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are summary; they often precede the crime; and the factions wreak their vengeance on each other, as a prevention of expected injuries. Something very similar to this is what perpetually takes place in every nation, in what is called a state of tranquillity and order. For government has usually been nothing more than a regulated faction. The party which governs, and the party which reluctantly submits to be governed, maintain a continual conflict; and out of that conflict proceed the crimes and the punishments, or, more properly speaking, the punishments and the crimes. When we see the power of the nation seizing an individual, dragging him to a tribunal, pronouncing him worthy of death, and then going through the solemn formalities of execution, it is natural to ask, what is the meaning of all this? It certainly means, that the nation is in a state of civil war; and even in that barbarous stage of war, when it is thought necessary to put all prisoners to death. In deciding the question, whether a particular criminal should be put to death, I never would ask what is the  
nature



nature of his offence; it has nothing to do with the question; I would simply enquire, what is the condition of the society. If it be in a state of internal peace, I would say it was wicked and absurd to think of inflicting such punishment. To plead that there is a necessity for that desperate remedy, proves a want of energy in the government, or of wisdom in the nation.

When men are in a state of war, with the enemy's bayonets pointed at their breasts, or when they are in the heat of a revolution, encompassed by treason, and tormented by corruption, there is an apology for human slaughter; but when you have established a wise and manly government, founded on the moral sense, and invigorated by the enlightened reason of the people, let it not be sullied by that timid vengeance, which belongs only to tyrants and usurpers. I could wish that your constitution might declare, not merely what it has already declared, that the penal code shall be reformed, but, that within a certain period after the return of peace,

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*the punishment of death shall be abolished.* It ought likewise to enjoin it on the legislative body to soften the rigour of punishments in general, till they shall amount to little more than a tender paternal correction. Whoever will look into the human heart, and examine the order of nature in society, must be convinced, that this is the most likely method of preventing the commission of crimes. But

*Tenth,* In order to be consistent with yourselves in removing those abuses which have laid the foundation of all offences against society, both in crimes and punishments, you ought to pay a farther attention to the necessity of *public instruction*. It is your duty, as a constituting assembly, to establish a system of government that shall improve the morals of mankind. In raising a people from slavery to freedom, you have called them to act on a new theatre; and it is a necessary part of your business, to teach them how to perform their parts. By discovering to a man his rights, you impose upon him a new system



system of duties. Every Frenchman, born to liberty, must now claim, among the first of his rights, the right of being instructed in the manner of preserving them. This the society has no authority to refuse; and to fail of enjoining it on the legislative body, as a part of its constant care, would be to counteract the principles of the revolution, and expose the whole system to be overturned.

From what the constitution has already declared on this head, and from the disposition of the two last assemblies, I have no doubt but considerable attention will be paid to it; but I wish in this place to recommend it to a more particular consideration, as a subject connected with criminal law. It is certain that no obedience can be rationally expected from any man to a law which he does not know. It is not only unjust, but absurd and even impossible, to enforce his obedience. It is therefore but half the business of legislators to make good laws; an indispensable part of their duty is to see that every person in

the state shall perfectly understand them. The barbarous maxim of jurisprudence, *That ignorance of the law is no excuse to the offender*, is an insolent apology for tyranny, and ought never to disgrace the policy of a rational government. I think therefore it would do honour to your constitution, and serve as a stimulus to your legislature and to your magistrates, in the great duty of instruction, to declare, *That knowledge is the foundation of obedience, and that laws shall have no authority but where they are understood.*

*Eleventh*, Since I am treating of morals, the great object of all political institutions, I cannot avoid bestowing some remarks on the subject of *public lotteries*. It is a shocking disgrace to modern governments, that they are driven to this pitiful piece of knavery, to draw money from the people. But no circumstance of this kind is so extraordinary, as that this policy should be continued in France, since the revolution; and that a state lottery should still be reckoned among the permanent  
sources



sources of revenue. It has its origin in deception; and depends for its support, on raising and disappointing the hopes of individuals, on perpetually agitating the mind with unreasonable desires of gain, on clouding the understanding with superstitious ideas of chance, destiny, and fate, on diverting the attention from regular industry, and promoting a universal spirit of gambling, which carries all sorts of vices into all classes of people. Whatever way we look into human affairs, we shall ever find, that the bad organization of society is the cause of more disorders than could possibly arise from the natural temper of the heart. And what shall we say of a government, that avowedly steps forward with the insolence of an open enemy, and creates a new vice, for the sake of loading it with a tax? What right has such a government to punish our follies? And who can look without disgust on the impious figure it makes, in holding the scourge in one hand, and the temptation in the other? You cannot hesitate to declare in your constitution, that all state lotteries shall be for ever abolished.

*Twelfth,*

*Twelfth*, As yours is the first nation in the world, that has solemnly renounced the horrid business of conquest, you ought to proceed one step farther, and declare, that you will have no more to do with *colonies*. This is but a necessary consequence of your former renunciation. For colonies are an appendage of conquest; and to claim a right to the one would be claiming a perpetual, or reiterated right to the other. Supposing your colonies were to declare independence, and set up a government of their own, (which your own principles and the first laws of nature declare they have a right to do) in that case, the same pretences which you now have to hold them under your controul, would certainly justify you in reconquering and subjecting them. But it would be a mere waste of argument, to prove that you have no *right* to retain a sovereignty over them; and if I could bring myself to pay so ill a compliment to your justice, as to suppose that you could wish to violate a right, for the sake of what is called *policy*, it would be easy to show, that to maintain foreign  
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possessions, is in all cases as impolitic, as it is unjust and oppressive. Policy, in this respect, can have no other object, but the advantages of trade; and it may be laid down as a universal position, that whatever solid advantages can flow to the mother country from the trade of her colonies, would necessarily flow to her, if they were independent states. The experience of mankind has not yet enabled us even to suppose a case, in which it would be otherwise. Whatever is free and mutually advantageous in trade, would be natural, and would be carried on by each party for its own interest: whatever is unnatural and forced must be secured by means that will probably lessen the quantity of the whole; but at all events, the cost of maintaining it will for ever exceed the profits. This is not only found to be true, from the experience of every nation which has maintained colonies abroad; but the nature of the subject requires that it should always be the case. It is a theory, for the proof of which no experience could have been necessary;

necessary; and it is to the pride of kings, and the mistaken rapacity of governments, to the false glare of extended sovereignty, and the desire of providing predatory places for the sycophants of courts, that we are to attribute the train of calamities which has tormented the maritime nations of Europe, in maintaining colonies for the monopoly of trade. And where are we to look for reason and reformation, but to France? The English and other governments, to support a consistency of character, and fill up the measure of their sins, are faithful only to this one point, that the more they are convinced of the truth, the more obstinate is their perseverance in error.

I cannot but think it unnecessary, if not impertinent, to enter into farther arguments to prove, that justice, policy, and the true principles of commerce, require you to set the example to the world, of declaring your colonies absolutely free and independent states, and of inviting  
them



them to form a government of their own. The example would soon be followed by other nations ; if not from reason and from choice, at least from the more imperious argument of necessity.

*Thirteenth*, I cannot close my letter, without some reflections on the policy of maintaining any thing like what is called *a standing army in time of peace*, which seems to have been the intention of your first Assembly. Such a force would have many fatal effects on the spirit of a republican government, without answering any good purpose that can be expected from it. According to your own principles, you will have no more to do with foreign wars, unless you are invaded ; and it is probable, that the present is the last invasion that will ever be formed against France. But, be that as it may, a standing military force is the worst resource that can be found for the defence of a free republic. In this case, the strength of the army is the weakness of the nation. If

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the army be really strong enough to be relied on for defence, it not only imposes on the people a vast unnecessary expence, but it must be a dangerous instrument, in the hands of dangerous men; it may furnish the means of civil wars, and of the destruction of liberty. If, on the contrary, it be not sufficient for external defence, it will only serve to disappoint the people. Being taught to believe that they have an army, they will cease to trust in their own strength, and be deceived in their expectations of safety.

But the greatest objection against a standing army is, the effect it would have on the political sentiments of the people. Every citizen ought to feel himself to be a necessary part of the great community, for every purpose to which the public interest can call him to act; he should feel the habits of a citizen and the energies of a soldier, without being exclusively destined to the functions of either. His physical and moral powers should be kept in equal vigour ;



vigour ; as the disuse of the former would be very soon followed by the decay of the latter. If it be wrong to trust the legislative power of the state for a number of years, or for life, to a small number of men ; it is certainly more preposterous to do the same thing with regard to military power. Where the wisdom resides, there ought the strength to reside, in the great body of the people ; and neither the one nor the other ought ever to be delegated, but for short periods of time, and under severe restrictions. This is the way to preserve a temperate and manly use of both ; and thus, by trusting only to themselves, the people will be sure of a perpetual defence against the open force, and the secret intrigues of all possible enemies at home and abroad.

*Fourteenth,* After tracing the outlines of your constitution, according to your present ideas, and proclaiming it in the most solemn manner, as the foundation of law and right, it will still be vain to think of restraining the people from making al-

terations and amendments, as often as experience shall induce them to change their opinions. The point you have to aim at in this, is to agree upon a method in which amendments can be made, without any of those extraordinary exertions, which would occasion unnecessary insurrections. The more easy and expeditious this method shall appear, the less likely it will be to provoke disorders, and the better it will answer the purpose, provided it always refers the subject to the real wishes of the people. I would propose, therefore, (on the presumption that your legislative body shall be chosen only for one year at a time) that every annual National Assembly shall have power to propose, and the next succeeding one to adopt and ratify, any amendments that they shall think proper in the constitutional code. But it should always be done under this restriction, that the articles to be proposed by any one Assembly, should be agreed to, and published to the people in every department, within the first six months of the sessions of that Assembly.



Assembly. This would give time to the people to discuss the subject fully, and to form their opinions, previous to the time of electing their members to the next Assembly. The members of the new Assembly, when they should come together, would thus be competent to declare the wishes of the people on the amendments proposed, and would act upon them as they should think proper. The same power of proposing and adopting would be continued from year to year with perfect safety to the constitution, and with the probability of improvement.

Thus, gentlemen, I have given a hasty sketch of some leading ideas, that lay with weight upon my mind, on a subject of much importance to the interests of a considerable portion of the human race. If they should be thought of no value, they will of course occupy but little of your attention, and therefore can do no injury. If I have said any thing from which a useful reflection shall be drawn, I shall feel myself

myself happy in having rendered some service to the most glorious cause that ever engaged the attention of mankind.

JOEL BARLOW,

London Sept 26,  
1792.